

Goldberg & Associates	Subject: Employment Classification Policy		
Effective Date: April 17, 2023	Revised Date:	Policy Number: 2023161	Page 1 of 5
Approved By:		Date Approved:	

I. Scope

The following guidelines ensure compliance with the *Fair Labor Standards Act* (FLSA) for all employees at Goldberg & Associates. The policy provides general guidelines for the application of the FLSA to positions at Goldberg & Associates but is not intended to replace the provisions of the FLSA.

II. Eligibility

Full-time and regular, part-time employees.

III. Policy

Goldberg & Associates is committed to ensure that employees be paid appropriately for time worked and must use leave under pertinent policies (such as annual leave, sick leave, or leave without pay) for time that they do not work. Therefore, an employee's pay will be reduced, or an employee will be placed on leave-without-pay, if absent from work for personal reasons or because of illness or injury and leave balances are not used because (1) there is no request to use accrued leave or a request has been denied, (2) leave balances have been exhausted, or (3) a request for leave- without-pay has been approved.

All employees of the Firm are covered by the FLSA, although some individuals may be exempt from certain of its provisions.

IV. Non- Exempt Positions

Non-exempt employees are subject to the provisions of the FLSA which require overtime payments for all hours worked in excess of a 40-hour work week. Overtime is paid, or overtime leave is granted, to all non-exempt employees who work more than a total of forty hours in the work week. All hourly wage employees are considered non-exempt and are eligible for overtime pending approval from the supervisor/ manager.

The *Fair Labor Standards Act* requires that employees in non-exempt positions be compensated at time-and-one-half rate for all hours worked over 40 in the work week.

IV. Exempt Positions

An exempt employee is one who is exempt from the minimum wage and overtime requirements of the *Fair Labor Standards Act* (FLSA). Exempt employees must meet the salary basis and level tests and the job duties test described below.

The following information gives a brief and general overview of the criteria that must be met in order for a position to be considered exempt under the FLSA.

1. **Salary Basis and Level Test** - To qualify for this exemption under the provisions of the FLSA, employees must generally be paid at least \$684 per week on a salary basis effective January 1, 2020. Salary basis means the employee receives a predetermined amount of compensation on a regular basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. With only a few exceptions, an exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked. The salary level may not be "pro-rated" for part-time positions.
2. **Job Duties Test** – To qualify for an exemption, employees must meet the above salary basis and level tests *and* qualify under one of the following job duty tests:

Executive

- Primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; AND
- Customarily and regularly directs the work of two or more other employees (2 FTE); AND
- Has authority to hire or fire other employees or must have significant ability to influence these decisions.

Administrative

- Primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers, AND
- primary duty includes the exercise of discretion and independent judgment with respect to matters of significance OR is related to academic instruction or training;
- Certain jobs in careers such as Finance, Auditing, Human Resources, Accounting, Public Relations, Database Administration, Procurement, and Budgeting may qualify as exempt.
- Certain jobs applying well established techniques, procedures, or standards described in manuals or other sources may not qualify as exempt.
- Those performing clerical, secretarial, mechanical, recurrent or routine work would not qualify as exempt.

Professional

- Primary duty must be the performance of work requiring advanced knowledge in a field of science or learning; AND

- Customarily acquired by a prolonged course of specialized intellectual instruction OR primary duty must be the performance of work requiring invention, imagination, originality, or talent in a recognized field or artistic or creative endeavor;
- Occupations that may qualify as exempt are in the fields of law, theology, medicine, accounting, teaching, architecture, engineering, physical sciences, chemical sciences, and biological sciences.
- Types of jobs that may not qualify as exempt are Licensed Practical Nurses (LPN), accounting clerks and bookkeepers who process routine work, paralegals, engineering technicians, and cooks/chefs who perform routine work.

Computer

- Computer systems analysts, computer programmers, software engineers or those in similar positions are considered exempt.
- Positions such as computer support specialists, help desk employees, computer network specialists, and database administrators do not qualify as exempt under the computer exemption; however, some of these positions may qualify under other exemptions.

The above section describes only general guidelines. Further information and assistance in interpretation of the FLSA can be obtained from Human Resources.

V. Minimum Wage Provisions

The *Fair Labor Standards Act* requires that all employees be paid at least at the current federal minimum wage rate of \$7.25 per hour.

G&A has established its own pay structure for all full-time employees in which the minimum salary, and thereby the equivalent hourly rate, exceed the federal and state minimum wage rates.

VI. Meal Breaks

G&A requires a 30-minute meal break for employees working six consecutive hours or more. Employees who work through their meal period must be compensated.

This includes an employee who stays at her or his workstation and occasionally answers the phone during the meal break or who, without approval of the supervisor, takes it upon himself or herself to work through the meal break. Employees who work without approval may be subject to disciplinary action but still must be compensated for time worked.

VII. Lactation Accommodations

The *Fair Labor Standards Act* requires employers with over 50 employees to provide non-exempt workers with “reasonable break time ... to express breast milk for her nursing child each time such employee has need to express the milk for 1 year after the child’s birth.” Typically, 15 to 20 minutes every three to four hours are required. G&A allows managers to grant non-exempt employees working an 8-hour day morning and afternoon breaks, not exceeding 15 minutes each, which are included with the total required hours of work. These breaks are to be paid. To accommodate mothers who require more than 15 minutes, managers may permit them to extend these breaks by up to 15 minutes each by taking unpaid time from the lunch break or by extending the work day by the amount required. Managerial approval is required for extended breaks. Employers are also required to provide “a place, other than a

bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.”.

Questions regarding these requirements and requests for assistance or guidance should be directed to Human Resources.

VIII. Procedure

How to Determine Overtime Hours or What Constitutes Hours Worked

The *Fair Labor Standards Act* states that non-exempt employees must be compensated for overtime at a rate of time and one half for all hours worked over 40 in a period of seven consecutive days (work week). The work period for the Firm is normally Saturday at midnight to the following Saturday at midnight. In calculating the total hours an employee works, hours used for leave of any kind including holidays are not included.

Non-Exempt Employees :Approval for Overtime Compensation

Overtime should be authorized only by the manager using the Overtime Authorization Form and primarily for exceptional requirements of an emergency or temporary nature. Employees who take it upon themselves to work overtime without prior approval from the supervisor may be subject to disciplinary action. This includes working through the meal break or after the normal work schedule. Continual use of overtime is prohibited.

In order to avoid the need for overtime pay or overtime leave, management may reschedule employees during the same work week so that no more than the 40 hours are worked.

IX. Travel Time

The hours a non-exempt employee spends traveling to a destination as part of the job for the Firm (except for normal home-to-work travel time) must be counted as hours worked **and is determined by management.**

- **All-In-One-Day Travel:** In the case of a non-exempt employee riding in an automobile or using mass transit, and traveling directly from and returning home on an all-day trip, all of the hours must be counted as work hours except travel time to and from the point of departure (i.e., train station or airport). Travel between the home and place of departure is regarded in a similar way to travel time between home and the normal office location and is not work time.
- **Overnight Travel:** When a non-exempt employee is traveling on an overnight trip all of the hours occurring within the normal daily scheduled hours must be counted as work hours even if the travel takes place on days when the employee is not normally scheduled to work. Time spent as a passenger during overnight travel outside of normal scheduled work hours where no work is performed does not count as hours worked.

A non-exempt employee who is required to drive is compensated for all travel hours.

Example: An employee normally works 9:00 a.m. - 6:00 p.m., Monday through Friday. Any travel hours between 9:00 a.m. and 6:00 p.m., even on Saturday and Sunday, are counted as hours worked.

X. Record Keeping

All employees are required to clock in and clock out using uattend. Time sheet corrections are due on the 16th and 1st of the month. Employees are required to review uattend and approve hours accordingly.

XI. Deductions

Circumstances in Which the Employer May Make Deductions from Pay

Deductions from pay are permissible when an exempt employee:

- is absent from work for one or more full days for personal reasons other than sickness or disability,
- for absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness,
- to offset amounts employees receive as jury or witness fees, or for military pay,
- OR for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions.

An employer is not required to pay the full week's salary:

- in the initial or terminal week of employment,
- for penalties imposed in good faith for infractions of safety rules of major significance,
- OR for weeks in which an exempt employee takes unpaid leave such as the Family and Medical Leave Act. In these circumstances, either partial day or full day deductions maybe made.

If an employee believes that an improper deduction has been made to their salary, they should immediately report this information to their direct supervisor, or to Human Resources.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed for any improper deduction made.

XII. Procedure to determine exempt status

Job Content Questionnaire is completed for each job family to objectively and systematically evaluate job descriptions belonging to that job family in terms of compensable factors in order to determine the pay grade for each job.

During job evaluation, the level and degree of independent judgment is reviewed by HR in accordance to the FLSA Exemption test of that job. The job evaluation process is based strictly on the minimum requirements and essential duties and responsibilities of a job and not on the level of performance of an individual in a job.

Questions regarding this policy and procedure should be directed to HR.

